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EXAMINER	
DAO, THUY CHAN	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/064,751	KONDO, GO	
	Examiner	Art Unit	
	Thuy Dao	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *03* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 April 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10 and 12-15* is/are pending in the application.

4a) Of the above claim(s) *11* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 12-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 October 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on April 28, 2008 has been entered.

2. Claims 1-9 and 12-15 have been examined.

Response to Amendments

3. In the instant amendments, claims 1, 6, 7, 12, and 15 have been amended; claim 11 has been canceled.

Response to Arguments

4. Applicant's arguments have been fully considered. After further consideration, the examiner notes that the combination of Admitted Prior Art (APA) and Jazdzewski (US Patent No.. 6,002,867) still teaches the newly added limitations as set forth in details below.

Claim Rejections – 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-6 and 15 are rejected because the claimed invention is directed to non-statutory subject matter:

Independent claims 1, 6, and 15 direct to “[an] application editing apparatus”, which may comprise only software components such as “an editing module”, “a

model converter", "a view display module", and "a event converter" (specification, page 8, [0044]).

Claims 1, 6, and 15 amount to Functional Descriptive Material: "Data Structures" representing descriptive material per se or "Computer Programs" representing computer listings per se.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions. See MPEP 2106.

Dependent claims 2-5 do not cure the deficiencies as noted above, thus, also amount to Functional Descriptive Material: "Data Structures" representing descriptive material per se or “Computer Programs” representing computer listings per se.

Under the principles of compact prosecution, claims 1-6 and 15 have been examined as the Examiner anticipates the claims will be amended to obviate these 35 USC § 101 issues. For example (constructive proposal only), - -An application editing apparatus for using a computer to edit an application having a model and a view separated from each other, comprising: a computer readable storage medium; an editing module …- - as disclosed in the specification, page 13, [0101].

Claim Rejections – 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA (art of record, Admitted Prior Art) in view of Jazdzewski (art of record, US Patent No. 6,002,867).

Claim 1:

APA discloses an apparatus, a program and *an application editing apparatus for using a computer to edit an application having a model and a view separated from each other* (e.g., FIG. 39, [0021-0034]), *comprising:*

an editing module for editing a first model in said application (e.g., page 4, [0026], “… Examples of such an editor including a model converter function are XML writer available from Wattle Software and Excelon Stylus available from eXcelon. These editors display a source model in a source code view (source view)

for editing...", emphasis added; [0023], editing source Document Object Models; and [0031]);

a model converter for receiving a report of an update to the first model and converting the first model edited by said editing module into a second model (e.g.,

page 5, [0031], "... Instead, a user should explicitly request an update of the target to convert the entire source model into the target model-view pair", an event generator for generating a refresh event in said view display after converting "...the entire source model into the target model-view pair", emphasis added;

page 4, [0026], "Furthermore, a model converter is not only used by itself but also included in an editor for generating a preview model", emphasis added; and [0023]);

dynamically changing views displayed on the display devices based on an edit of the source model (e.g., FIG. 37, Add a node in source model → Notify event to other views → Insert event to other views → update other views, pages 1-2, [0005-0008]; page 2, [0014]; FIG. 39, model-view pairs A-A2, B-B2, and C-C);

an explicit request for synchronizing updates between two models (e.g., page 5, [0031]; FIG. 39, synchronizing updates between models A, B, and C);

said first model using a view of said second model (e.g., FIG. 39, model A (first model) using tree view A2, which is also a tree view of model B (second model), [0021])

said view different from a view of said first model (e.g., FIG. 39, said tree view A2 is different from the view "what your see is what you get" WYSIWYG A1, wherein view A1 is another view of said model A (said first model), [0020]-[0021]),

said second model associated with a different application from said application (FIG. 39, said model B (said second model) associated with application B, which is a different application from application A (of said model A), [0021]-[0023]);

a view display module for using a view of said second model to display said second model on a display device (page 4, [0026], "In response to this operation, a model converter included in the editor converts the entire source model into a new model to update the preview, which is a view of the converted model"; FIG. 39, page 3, [0021]);

wherein said view display module comprises an event generator for generating an event based on an update in said second model if said second model is updated based on an edit of said first model made by said editing module and updates changed portion of the view displayed on said display device based on the event generated by said event generator (e.g.,

page 5, [0031], "… Instead, a user should explicitly request an update of the target to convert the entire source model into the target model-view pair", an event generator for generating a refresh event in said view display after converting "...the entire source model into the target model-view pair", emphasis added;

page 4, [0026], lines 5-9, in response to an explicit operation, an event generator generates an update event "…to update the preview, which is a view of the converted model";

FIG. 39, changing target model-view pair A-A2 based on an edit of source model B; changing target model-view pair B-B2 based on an edit of source model A or C; changing target model-view pair C-C based on an edit of source model B).

APA does not explicitly disclose *receiving automatically a report of an update to the first model and converting the first model edited by said editing module into a second model* (emphasis added).

However, in an analogous art, Jazdzewski explicitly teaches:

receiving automatically a report of an update to the first model and converting the first model edited by said editing module into a second model (e.g., FIG. 5A-C, col.9: 65 – col.10: 27; FIG. 6A-E, col.10: 28 – col.11: 7; col.3: 24-27 and 46-67); and further discloses:

the first model associated with an application (e.g., col.8: 18-52, ancestor form/model associated with an existing application)*;*

said second model (e.g., col.3: 27-67; col.8: 54 – col.9: 32, descendent form/model of another application)*;*

said second model associated with a different application from said application (e.g., col.3: 12-27; col.9: 20-46).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Jazdzewski's teaching into APA's teaching. One would have been motivated to do so to make any changes to the ancestor form/model (first view/model pair of an existing application) immediately appear in the descendant form/model (second view/model of another application) wherein the descendant form could be different/customized from the ancestor form as suggested by Jazdzewski (e.g. col.3: 9-67).

Claim 2:

The rejection of base claim 1 is incorporated. Jazdzewski further discloses *said view display module further comprises: a difference extractor for extracting a difference between said second models before and after an update if said second model is updated based on an edit of said first model made by said editing module and said event generator generates said event by using information about said difference extracted by said difference extractor as a parameter* (e.g., col.9: 47-64; col.11: 59-64; col.15: 15-20).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Jazdzewski's teaching into APA's teaching. One would have been motivated to do so as set forth above.

Claim 3:

The rejection of base claim 1 is incorporated. APA also discloses *said model converter converts an individual element of said first model into a corresponding element of said second model* (e.g., FIG. 39, Models B - C, and related text page 3, [021]).

Claim 4:

The rejection of base claim 1 is incorporated. APA also discloses *if said second model contains no element corresponding to a converted element of said first model, said model converter adds an element corresponding to said converted element to said second model* (e.g., FIG. 39, Models A – B, and related text page 3, [021]).

Claim 5:

The rejection of base claim 1 is incorporated. APA also discloses *said model converter converts an element edited by said editing module in said first model into a corresponding element in second model and updates said second model with said converted element* (e.g., pages 3-4, [023-025]).

Claim 6:

Claim 6 is an apparatus version, which recites the same limitations as those of the claims 2-5, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claims, they also teach all of the limitations of claim 6.

Claim 7:

As set forth in claim 1, APA discloses *a data processing method of using a computer to display a model in a given application in a view in another application* (e.g., FIG. 39, displaying model A in a given application A in views B and C in other applications B and C)*, comprising the steps of:*

reading a second model in said another application from a data storage storing said given application; updating a second model so that the update is reflected in said second model if a first model in said given application is updated (e.g.,

page 4, [0026], "In response to this operation, a model converter included in the editor converts the entire source model into a new model to update the preview, which is a view of the converted model";

FIG. 39, page 3, [0021], first model as source model, second model as converted model; lines 6-10, a model converter reading Model B, updating, and displaying in source view or tree view, but not in WYSIWYG view, a model converter reading Model C, updating, and displaying in source view only)*;*

said updating performed upon receiving a report of an update to the first model (e.g.,

page 5, [0031], "… Instead, a user should explicitly request an update of the target to convert the entire source model into the target model-view pair", an event generator for generating a refresh event in said view display after converting "...the entire source model into the target model-view pair", emphasis added;

page 4, [0026], lines 1-2, "Furthermore, a model converter is not only used by itself but also included in an editor for generating a preview model", emphasis added; and [0023])*;*

page 4, [0026], lines 5-9, in response to an explicit operation, an event generator generates an update event "…to update the preview, which is a view of the converted model"; *and*

said first model using a view of said second model (e.g., FIG. 39, model A (first model) using tree view A2, which is also a tree view of model B (second model),)

said view different from a view of said first model (e.g., FIG. 39, said tree view A2 is different from the view "what your see is what you get" WYSIWYG A1, wherein view A1 is another view of said model A (said first model),),

said second model associated with a different application from said application (FIG. 39, said model B (said second model) associated with application B, which is a different application from application A (of said model A),);

generating an event based on the update made to said second model and, based on said event, changing the view displayed on a display device in said another application (e.g.,

page 5, [0031], "… Instead, a user should explicitly request an update of the target to convert the entire source model into the target model-view pair", an event generator for generating a refresh event in said view display after converting "...the entire source model into the target model-view pair", emphasis added;

page 4, [0026], lines 5-9, in response to an explicit operation, an event generator generates an update event "…to update the preview, which is a view of the converted model";

FIG. 39, changing target model-view pair A-A2 based on an edit of source model B; changing target model-view pair B-B2 based on an edit of source model A or C; changing target model-view pair C-C based on an edit of source model B).

Furthermore, APA discloses:

dynamically changing views displayed on the display devices based on an edit of the source model (e.g., FIG. 37, Add a node in source model → Notify event to other views → Insert event to other views → update other views, pages 1-2, [0005-0008]; page 2, [0014]; FIG. 39, model-view pairs A-A2, B-B2, and C-C);

an explicit request for synchronizing updates between two models (e.g., page 5, [0031]; FIG. 39, synchronizing updates between models A, B, and C).

APA does not explicitly disclose *said updating performed upon receiving automatically a report of an update to the first model* (emphasis added).

However, in an analogous art, Jazdzewski explicitly teaches:

receiving automatically a report of an update to the first model and converting the first model edited by said editing module into a second model (e.g., FIG. 5A-C, col.9: 65 – col.10: 27; FIG. 6A-E, col.10: 28 – col.11: 7; col.3: 24-27 and 46-67); and further discloses:

the first model associated with an application (e.g., col.8: 18-52, ancestor form/model associated with an existing application);

said second model (e.g., col.3: 27-67; col.8: 54 – col.9: 32, descendent form/model of another application);

said second model associated with a different application from said application (e.g., col.3: 12-27; col.9: 20-46).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Jazdzewski's teaching into APA's teaching. One would have been motivated to do so as set forth above.

Claim 8:

The rejection of base claim 7 is incorporated. Claim 8 is a method version, which recites the same limitations as those of claim 2, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of claim 2, they also teach all of the limitations of claim 8.

Claim 9:

The rejection of intervening claim 8 is incorporated. APA also discloses said step of updating said second model comprises the step of converting elements of said first model into a corresponding elements of said second model, and said step of

changing the view in said another application comprises the step of updating the converted elements of said second models (e.g., FIG. 39 and related text in pages 3-6, [020-034]).

APA does not explicitly discloses *the step of converting an individual element of said first model into a corresponding element of said second model, and the step of extracting a difference in the individual converted element of said second models before and after the update.*

However, Jazdzewski further discloses the step of converting an individual element of said first model into a corresponding element of said second model, and the step of extracting a difference in the individual converted element of said second models before and after the update (e.g., col.9: 47-64; col.11: 59-64; col.15: 15-20).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Jazdzewski's teaching into APA's teaching. One would have been motivated to do so as set forth above.

Claim 10:

The rejection of base claim 7 is incorporated. APA also discloses *changing the view in said another application comprises the step of converting an event causing the update made to said first model to be reflected in a view in said given application into an event changing the view in said another application by using a conversion rule for converting said first model into said second model* (e.g., [0022], [0024]).

Claim 11:

Claim 11 is a program version, which recites the same limitations as those of claim 9, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claim, they also teach all of the limitations of claim 11.

Claims 12-14:

Claims 12-14 are also program versions, which recite the same limitations as those of claims 2-5 and 9-10, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claims, they also teach all of the limitations of claims 12-14.

Claim 15:

Claim 15 recites the same limitations as those of claim 1, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claim, they also teach all of the limitations of claim 1.

Jazdzewski explicitly teaches:

receiving automatically a report of an update to the first model and converting the first model edited by said editing module into a second model (e.g., FIG. 5A-C, col.9: 65 – col.10: 27; FIG. 6A-E, col.10: 28 – col.11: 7; col.3: 24-27 and 46-67); and further discloses:

the first model associated with an application (e.g., col.8: 18-52, ancestor form/model associated with an existing application)*;*

said second model (e.g., col.3: 27-67; col.8: 54 – col.9: 32, descendent form/model of another application)*;*

said second model associated with a different application from said application (e.g., col.3: 12-27; col.9: 20-46)*.*

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Jazdzewski's teaching into APA's teaching. One would have been motivated to do so as set forth above.

Conclusion

9. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone/fax numbers are (571) 272 8570 and (571) 273 8570, respectively. The examiner can normally be reached on Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thuy Dao/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192